

REMARKS / ARGUMENTS

I. General Remarks and Disposition of the Claims

Please consider the application in view of the foregoing amendments and the following remarks. Applicants thank the Examiner for his careful consideration of this application, including the references that Applicants have submitted in this case and, pursuant to MANUAL OF PATENT EXAMINING PROCEDURE § 609.02, all references submitted in the patent applications to which this application claims priority under 35 U.S.C. § 120. Applicants respectfully request that the above amendments be entered and further request reconsideration in light of the amendments and remarks contained herein.

At the time of the Office Action, claims 1, 3-8, 10-19, 21-25, 27-28, 30, 32-36, 39-42, 44, 56, 59-62, 65-73, 82-83, 85-90, 92-95, 98-100, and 103-111 were pending. Claims 1, 3-8, 10-19, 21-25, 27-28, 30, 32-36, 39-42, 44, 56, 59-62, 65-73, 82-83, 85-90, 92-95, 98-100, and 103-111 were rejected in the Office Action. Claims 1, 4-8, 10, 24, 42, 90, 94 have been cancelled herein, and claim 112 is new.

In this Response, claims 3, 11, 14-19, 30, 32, 33, 35, 41, 44, 56, 59, 61, 82, 85-87, 89, and 95 have been amended, and claim 112 has been added. These amendments and additions are supported by the specification as filed. All the amendments are made in a good faith effort to advance the prosecution on the merits of this case.

II. Remarks Regarding Rejections of Claims and Applicants' Amendments to the Claims

In response to the rejections maintained in the Final Office action, Applicants initially incorporate herein by reference and reiterate their remarks and arguments from their prior responses regarding those rejections, which apply to those claims as amended herein as well.

Moreover, in this RCE, Applicants have amended independent claims 19, 30, 41, and 86 (from which claims 3, 11-18, 21-23, 25, 27, 28, 32-36, 39, 40, 44, 87-89, 92, and 93 depend) to recite the steps of drilling the well bore in at least a portion of the subterranean formation that comprises shale using the drilling fluid, and allowing the drilling fluid to at least partially inhibit the degradation of shale. Applicants have also amended independent claims 56, 82, and 95 (from which claims 59-62, 65-73, 83, 85, 98-100, and 103-111 depend) to recite an aqueous-based drilling fluid suitable for use as a drilling fluid in a subterranean drilling operation. With respect to the rejections over U.S. Patent No. 7,276,249 to Ryde ("Ryde"), *Ryde* cannot anticipate the rejected claims, as amended, because *Ryde* does not disclose or teach an aqueous-based drilling fluid suitable for use as

a *drilling* fluid in a subterranean drilling operation. Instead, the disclosure of *Ryde* is limited to pharmaceutical compositions. With respect to the rejections over U.S. Patent No. 4,792,412 to Heilweil (“*Heilweil* ‘412”), *Heilweil* ‘412 cannot anticipate or obviate the rejected claims, as amended (either alone or in view of other cited references), since neither *Heilweil* ‘412 nor the other cited references teaches or discloses allowing a drilling fluid to *at least partially inhibit the degradation of shale*.

Thus, for the additional reasons stated above as well as the other reasons already of record, Applicants respectfully submit that Applicants’ claims are in condition for allowance as presented herein.

III. No Waiver

All of Applicants’ arguments and amendments are without prejudice or disclaimer. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art.

SUMMARY

In light of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

The Commissioner is hereby authorized to debit Baker Botts L.L.P.’s Deposit Account No. 02-0383, Order Number 063718.0358, in the amount of \$810.00 for the RCE fee under 37 C.F.R. § 1.17(e). Applicants believe that no additional fees are due in association with the filing of this response. Should the Commissioner deem that any fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to Baker Botts, L.L.P.’s Deposit Account No. 02-0383, Order Number 063718.0358.

Respectfully submitted,

/ Elizabeth L. Durham /
Elizabeth L. Durham
Registration No. 59,509
BAKER BOTTS L.L.P.
One Shell Plaza
910 Louisiana
Houston, TX 77002
Telephone: 713.229.2104
Facsimile: 713.229.7704
Email: liz.durham@bakerbotts.com

Date: April 1, 2010